IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO
WRIT PETITION NO : 810 of 1994

Between:
1 Maddineni Kotaiah S/o. Ramaiah
Nehrunagar Colony Khammam
2 Smt.M.Pushpavathi W/o. M.Kotaiah
Nehrunagar Colony Khammam
3 Smt.Potla Madhavi W/o.P.Nageswara Rao
Nehrunagar Colony Khammam
4 M.Venkateswarlu S/o. M.Kotaiah
Nehrunagar Colony Khammam
5 Kum.M.Mamatha D/o. M.Kotaiah
Nehrunagar Colony Khammam
6 Smt.V.Malathi W/o.Narayana Reddy
Nehrunagar Colony Khammam

..... PETITIONER(S)

AND

1 The Government of A.P., rep.by its Prl. Secretary
Revenue Department, Secretariat Buildings,
Hyderabad
2 The District Collector Khammam District,
Khammam
3 The Mandal Revenue Officer Dammapeta Mandal,
Dammapeta, Khammam Dist
4 The Mandal Revenue Inspector, Dammapeta Mandal,
Khammam Dist.
5 Mediyam Seethaiah S/o.Laxmudu
Jamadar Banjar H/o.Dammapeta, Dammapeta Mandal,
Khammam Dist
6 Junja Nagulu S/o.Gangulu
Jamadar Banjar H/o.Dammapeta, Dammapeta Mandal,
Khammam Dist
7 Kanithi Bojji
Jamadar Banjar H/o.Dammapeta, Dammapeta Mandal,
Khammam Dist

8 Vooke Pothappa
Jamadar Banjar, H/o.Dammapeta, Dammapeta Mandal,
Khammam Dist.
9 Sunnam Pedaramulu
Jamadar Banjar, H/o.Dammapeta, Dammapeta Mandal,
Khammam Dist.
10 Vooke Chinapotharaju
Jamadar Banjar, H/o.Dammapeta, Dammapeta Mandal,
Khammam Dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of certiorari calling for the records relating to and in connection with the orders passed by the Mandal Revenue Officer Dammapeta Khammam Dist in his Rc.NO.B/193/91, Dt.6/1/1994 in the light of the orders passed by the Government in their Memo No.25531/ASN.II(1)/92-4, Dt.12/01/1993 followed by the instructions of the 2nd respondent and to quash the same and consequentially to declare the orders of the 3rd respondent in Rc.No.B/193/91-1, Dt.22/2/1992 as illegal after holding that the provisions contained in section 3 and 4 of the Act 9/77 has no application to the lands held by the petitioners and to pass such other order.

For the Petitioner:MR.M.R.K.CHOWDARY, Advocate

For the Respondent No.1 to 4: GP FOR REVENUE

For the Respondent Nos.6 to 10 : None appeared.

The Court Made the Following :

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O R D E R :

The petitioners herein have purchased agricultural lands admeasuring about Acs.72-00 comprised in Survey Nos.884 and 1458 of Jamedar Banjar, hamlet of Dammapet village and Mandal in Khammam District in the year 1985. They allege that they have spent huge amounts and brought the land under cultivation. They also allege that third respondent acting under the instructions of the jurisdictional Revenue Divisional Officer and the District Collector, Khammam (second respondent herein) issued a notice under Section 3 of Andhra Pradesh Assigned lands (Prohibition of Transfers) Act,1977 (hereafter called 'the Act') and to which the petitioners have submitted an explanation. Third respondent, by orders dated 22-2-1992 ordered for eviction of the petitioners from the assigned lands and further directed the fourth respondent to resume the land.

The petitioners filed a representation before first respondent through a Member of Legislative Assembly(MLA) by way of a revision petition contending that as orders were passed by the Mandal Revenue Officer under the directions of the Revenue Divisional Officer and the District Collector, it would be futile to file an appeal. Be that as it is, the Government after considering the representation, by order dated 24-3-1992 directed second respondent not to disturb the petitioners from the possession of the lands, pending final orders. Subsequently, by order dated 12-1-1993 in Memo No.25531/ASN.II(1)/92-4, the Government having examined the matter in consultation with second respondent and the Commissioner of Land Revenue, vacated the interim stay and directed the District Collector to take further necessary action in the matter. This order is assailed in the present writ petition.

Third respondent has filed a counter affidavit opposing the writ petition stating that the land was assigned to respondents 5 to 10 and that land was purchased by the petitioners in contravention of the provisions of the Act, and therefore, the sales are void. It is further stated that the petition submitted by the petitioners before the Government was dismissed and the petitioners failed to appear before the Government.

The learned senior counsel, Sri M.R.K.Chowdary, for the petitioners submits that when once the Government granted interim order, they could not have vacated the interim orders without notice to the petitioners. He further submits that so far the petitioners have not received any notice for final disposal. These contentions are refuted by Sri K.K.Mahender Reddy, learned Government Pleader for Revenue (Assignments). He has also produced the file from the office of the Mandal Revenue Officer in support of the contention that the procedure was correctly followed before eviction orders were passed.

The impugned order of the Government dated 12-1-1993 reads as under.

> Sri M.Venkateswarlu and others, r/o. Khammam are hereby informed that their request to review the orders passed by the Mandal Revenue Officer, Dammapet (V) in his proceedings No.Rc.B1/193/91, dated 19-2-1991 under the provisions of the A.P.Assigned Lands (Prohibition of Transfer) Act,1977 has been examined by the Government in consultation with the District Collector, Khammam and the Commissioner of Land Revenue, Andhra Pradesh, Hyderabad, and it has been decided to vacate the stay orders granted earlier in the Government Memo third cited and to allow the law to take its own course.
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> Accordingly, the stay orders issued in the Government Memo third cited are hereby vacated. The Collector, Khammam District is requested to take further necessary action in the matter.

The above order plainly discloses that the Government have disposed of the revision petition itself. While doing so, it also vacated the interim order. The order does not mention anywhere that prior notice was sent to the petitioners either for vacating the interim order or finally disposed of the matter agreeing with the District Collector and the Commissioner of Land Revenue. This violates the principles of fairness as well as the principles of natural justice. It is now axiomatic that no person can be deprived of a right or privilege without proper notice to him/her. When the Government acted upon the representation submitted by Sri Puvvada Nageswara Rao, MLA, on behalf of the petitioners and granted stay, the Government ought to have issued notice to the

petitioners before vacating the order. Likewise, when the revision petition itself was being disposed of, the essential requisite of law of issuing a notice was contravened. Therefore, the impugned order is unsustainable.

Accordingly the writ petition is allowed and the petitioners are given liberty to file an appeal under Section 4-A of the Act before the Revenue Divisional Officer, Paloncha, within a period of two weeks from the date of receipt of a copy of this order. As and when such appeal is presented, the Revenue Divisional Officer shall take the appeal on file and pass appropriate orders on merits after conducting enquiry, without in any manner influenced by the orders passed by the Government or the observations made hereinabove either in favour of the petitioners or against them. As this Court passed interim order on 25-1-1994 ordering status quo regarding the possession, the same shall continue. The submission made by the learned Government Pleader that the land was resumed and restored to the original assignees on 12-1-1994 by conducting panchanama is also recorded. No costs.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Prl.Secretary, Revenue Department,
Govt.of A.P., Secretariat Buildings, Hyderabad.
2 The District Collector Khammam District, Khammam
3 The Mandal Revenue Officer Dammapeta Mandal,
Dammapeta, Khammam District.

4 The Mandal Revenue Inspector, Dammapeta Mandal,
Khammam Dist.

5.2CCs to Government Pleader for Revenue, High Court of A.P.,Hyd.
6.2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.810 of 1994

Dt.17-06-2004.
(Msr)